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GOVERNMENT OF INDIA

LEGISLATIVE DEPARTMENT

New Delhi, the 11th March, 1947

The following Acts of the Indian Legislature received the assent of the Governor General on the 11th March, 1947, and are hereby published for general information:—

ACT No. I OF 1947

An Act to amend the Criminal Tribes Act, 1924

WHEREAS it is expedient to amend the Criminal Tribes Act, 1924 (VI of 1924) It is enacted as follows:—

1. Short title, commencement and extent.—(1) This Act may be called the Criminal Tribes (Amendment) Act, 1947.

(2) It shall come into force immediately.

(3) It extends to the whole of British India.

2. Amendment of section 23, Act VI of 1924.—In sub-section (1) of Section 23 of the Criminal Tribes Act, 1924 (VI of 1924).—

(1) For the word “shall” occurring after the words ‘such offence’ the word “may” shall be substituted;

(2) In clause (a) between the words “second” and “conviction” the word “or further” shall be inserted;

(3) In clause (a) for the word “less” the word “more” shall be substituted

(4) Clause (b) shall be omitted.

ACT No. II OF 1947

An Act for the more effective prevention of bribery and corruption

WHEREAS it is expedient to make more effective provision for the prevention of bribery and corruption;

It is hereby enacted as follows:—

1. (1) This Act may be called the Prevention of Corruption Act, 1947. short title,
extent and
duration

(2) It extends to the whole of British India and it applies also to all British subjects and servants of the Crown in any part of India and to British subjects who are domiciled in any part of India wherever they may be.

(3) Section 5 shall remain in force for a period of three years from the commencement of this Act.

Interpreta- tion	2.* For the purposes of this Act, "public servant" means a public servant as defined in section 21 of the Indian Penal Code.	XLV of 1860
Offences under sections 161 and 165 of the Penal Code to be cognizable offences	3. An offence punishable under section 161 or section 165 of the Indian Penal Code shall be deemed to be a cognizable offence for the purposes of the Code of Criminal Procedure, 1898, notwithstanding anything to the contrary contained therein :	XLV of 1860 V of 1898
	Provided that a police officer below the rank of Deputy Superintendent of Police shall not investigate any such offence without the order of a Magistrate of the first class or make any arrest therefor without a warrant.	
Presump- tion where public servant accepts gratifica- tion other than legal remunera- tion	4. Where in any trial of an offence punishable under section 161 or section 165 of the Indian Penal Code, it is proved that an accused person has accepted or obtained, or has agreed to accept or attempted to obtain, for himself or for any other person, any gratification (other than legal remuneration) or any valuable thing from any person, it shall be presumed unless the contrary is proved that he accepted or obtained, or agreed to accept or attempted to obtain, that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in the said section 161, or, as the case may be, without consideration or for a consideration which he knows to be inadequate :	XLV of 1860
	Provided that the Court may decline to draw such presumption if the gratification or thing aforesaid is in its opinion so trivial that no inference of corruption may fairly be drawn.	
Criminal misconduct in discharge of official duty	5. (1) A public servant is said to commit the offence of criminal misconduct in the discharge of his duty.— (a) if he habitually accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person, any gratification (other than legal remuneration) as a motive or reward such as is mentioned in section 161 of the Indian Penal Code, or (b) if he habitually accepts or obtains or agrees to accept or attempts to obtain for himself or for any other person, any valuable thing without consideration or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned, or	XLV of 1860

(c) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or under his control as a public servant or allows any other person so to do, or

(d) if he, by corrupt or illegal means or by otherwise abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage.

(2) Any public servant who commits criminal misconduct in the discharge of his duty shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

(3) In any trial of an offence punishable under sub-section (2) the fact that the accused person or any other person on his behalf is in possession, for which the accused person cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income may be proved, and on such proof the Court shall presume, unless the contrary is proved, that the accused person is guilty of criminal misconduct in the discharge of his official duty and his conviction therefor shall not be invalid by reason only that it is based solely on such presumption.

V of 1898

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, a police officer below the rank of Deputy Superintendent of Police shall not investigate any offence punishable under sub-section (2) without the order of a Magistrate of the first class or make any arrest therefor without a warrant.

XLV of 1860

6. No Court shall take cognizance of an offence punishable under section 161 or section 165 of the Indian Penal Code or under sub-section (2) of section 5 of this Act, for alleged to have been committed by a public servant, except with the previous sanction,—

Previous sanction necessary for prosecution

(a) in the case of a person who is employed in connection with the affairs of the Federation and is not removable from his office save by or with the sanction of the Central Government or some higher authority, Central Government ;

(b) in the case of a person who is employed in connection with the affairs of a Province and is not removable from his office save by or with the sanction of the Provincial Government or some higher authority, Provincial Government ;

(c) in the case of any other person, of the authority competent to remove him from his office.

Accused
person
to be
competent
witness

7. Any person charged with an offence punishable under section 161 or section 165 of the Indian Penal Code or under sub-section (2) of section 5 of this Act shall be a competent witness for the defence and may give evidence on oath in disproof of the charges made against him or any person charged together with him at the same trial : XLV of 1860

Provided that—

(a) he shall not be called as a witness except on his, own request ;

(b) his failure to give evidence shall not be made the subject of any comment by the prosecution or give rise to any presumption against himself or any person charged together with him at the same trial,

(c) he shall not be asked, and if asked shall not be required to answer, any question tending to show that he has committed or been convicted of any offence other than the offence with which he is charged, or is of bad character, unless—

(i) the proof that he has committed or been convicted of such offence is admissible evidence to show that he is guilty of the offence with which he is charged, or

(ii) he has personally or by his pleader asked questions of any witness for the prosecution with a view to establish his own good character, or has given evidence of his good character, or the nature or conduct of the defence is such as to involve imputations on the character of the prosecutor or of any witness for the prosecution, or

(iii) he has given evidence against any other person charged with the same offence. 4

Act No. III of 1947

An Act further to amend the Indian Extradition Act, 1903]

WHEREAS it is expedient further to amend the Indian Extradition Act, 1903, for the purpose herein-after appearing ;

XV of 1903

It is hereby enacted as follows :—

Short title

1. This Act may be called the Indian Extradition (Amendment) Act, 1947.

Amendment
of section
8A, Act XV
of 1903

2. Section 8A of the Indian Extradition Act, 1903, shall be renumbered as sub-section (1) of that section and to the section as so renumbered the following sub-section shall be added, namely :—

“(2) In the case of any bond executed in pursuance of this section, the District Magistrate or the Chief Presidency Magistrate, as the case may be, may exercise the powers conferred by the Code of Criminal Procedure for the time being in force in relation to taking a deposit in lieu of the execution of a bond and with respect to the forfeiture of bonds and the discharge of sureties.”

ACT No. IV OF 1947

An Act further to amend the Coffee Market Expansion Act, 1912

VII of 1942 WHEREAS it is expedient further to amend the Coffee Market Expansion Act, 1942, for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. This Act may be called the Coffee Market **Short title.**
Expansion (Amendment) Act, 1947.

VII of 1942 2. Sub-section (3) of section 1 of the Coffee Market Expansion Act, 1942 (hereinafter referred to as the said Act), shall be omitted. **Amendment of section 1, Act VII of 1942.**

3. For sub-section (2) of section 4 of the said Act, the following sub-section shall be substituted, **Amendment of section 4, Act VII of 1942.**
namely:—

“(2) The Board shall consist of—

(a) (i) one person representing the Imperial Council of Agricultural Research, nominated by the Central Government;

(ii) one person representing the Department of Industries and Supplies of the Central Government, nominated by that Government;

(iii) one person representing Coorg, nominated by the Central Government;

(iv) one person representing the Government of Madras, nominated by that Government;

(v) three persons representing the Mysore State, nominated by the Government of that State;

(vi) one person representing the Travancore State, nominated by the Government of that State;

(vii) one person representing the Cochin State, nominated by the Government of that State;

(b) four persons representing the coffee trade interests, nominated by the Central Government;

(c) fourteen persons representing the coffee growing industry, namely:—

(i) three persons nominated by the Government of Mysore;

(ii) three persons nominated by the United Planters' Association of Southern India;

(iii) one person nominated by the Coorg Planters' Association;

(iv) one person nominated by the Coorg Indian Planters' Association;

(v) one person nominated by the Mysore Planters' Association;

(vi) one person nominated by the Mysore Indian Planters' Association;

(vii) one person nominated by the Nilgiri Cum Nilgiri-Wynaad Planters' Association;

(viii) one person nominated by the Malabar-Wynaad Coffee Growers' Association ;

(ix) one person nominated by the Shevaroy Planters' Association ;

(x) one person nominated by the Palni-Bodi-Sirumalai Coffee Growers' Association ;

(d) three persons representing labour, one each to be nominated in consultation with labour organisations by the Governments of Madras and Mysore and one to be nominated in consultation with labour organisations by the Chief Commissioner of Coorg."

Substitution of new section for section 49, Act VIII of 1942.

4. For section 49 of the said Act, the following section shall be substituted, namely:—

"49. The Indian Coffee Cess Act, 1935, is hereby repealed."

Repeal of Act XIV of 1935.

Substitution of new designation for Controller of Coffee and Deputy Controller of Coffee.

5. For the expressions "Controller of Coffee" and "Deputy Controller of Coffee", wherever they occur in the said Act, the expressions "Chief Coffee Marketing Officer" and "Deputy Chief Coffee Marketing Officer" shall respectively be substituted.

ACT NO. V OF 1947

An Act further to amend the Factories Act, 1934.

WHEREAS it is expedient further to amend the Factories Act, 1934, for the purposes hereinafter appearing ;

XXV of 1934.

It is hereby enacted as follow :—

Short title.

1. This Act may be called the Factories (Amendment) Act, 1947

Insertion of new section 33A in Act XXV of 1934.

Power to make rules for the provision of canteens.

2. In Chapter III of the Factories Act, 1934 (hereinafter referred to as the said Act), after section 33 the following section shall be inserted, namely :—

"33A. (1) The Provincial Government may make rules requiring that in any specified factory wherein more than two hundred and fifty workers are ordinarily employed, an adequate canteen shall be provided for the use of the workers.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the date by which such canteen shall be provided ;

(b) the standards in respect of construction, accommodation, furniture and other equipment of the canteen ;

(c) the foodstuffs to be served therein and the charges which may be made therefor ;

(d) representation of the workmen in the management of the canteens ;

(e) enabling, subject to such conditions, if any, as may be specified, the power to make rules under clause (c) to be exercised also by the Chief Inspector."

Amendment of section 34, Act XXV of 1934.

3. In the proviso to section 34 of the said Act, the word "non-seasonal" shall be omitted

ACT No. VI OF 1947

An Act further to amend the Indian Railways Act, 1890

IX of 1890 WHEREAS it is expedient further to amend the Indian Railways Act, 1890, for the purpose hereinafter appearing ;

It is hereby enacted as follows :—

- | | |
|---|---|
| 1. This Act may be called the Indian Railways (Amendment) Act, 1947. | Short title |
| 2. In sub-section (1) of section 75 of the Indian Railways Act, 1890, for the words "one hundred rupees" the words "three hundred rupees" shall be substituted. | Amendment of section 75, Act IX of 1890 |

ACT No. VII OF 1947

An Act to regulate certain payments, dealings in foreign exchange and securities and the import and export of currency and bullion.

WHEREAS it is expedient in the economic and financial interests of India to provide for the regulation of certain payments, dealings in foreign exchange and securities and the import and export of currency and bullion ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Foreign Exchange Regulation Act, 1947.

Short title, extent, commencement and duration.

(2) It extends to the whole of British India, and applies also to British subjects and servants of the Crown in any part of India, and to British subjects who are domiciled in any part of India wherever they may be.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

(4) It shall remain in force for five years only, but the Central Government may, by notification in the official Gazette, direct that it shall remain in force for a further period not exceeding three years.

2. In this Act, unless there is anything repugnant in the subject or context,—

Interpretation.

(a) " authorised dealer " means a person for the time being authorised under section 3 to deal in foreign exchange ;

(b) " currency " includes all coins, currency notes, bank notes, postal notes, money orders, cheques, drafts, traveller's cheques, letters of credit, bills of exchange and promissory notes ;

(c) " foreign currency " means any currency other than Indian currency ;

(d) " foreign exchange " means foreign currency and includes all deposits, credits and balances payable in any foreign currency, and any drafts, traveller's cheques, letters of credit and bills of exchange, expressed or drawn in Indian currency but payable in any foreign currency.

(e) "foreign security" means any security issued elsewhere than in India, and any security the principal of or interest on which is payable in any foreign currency or elsewhere than in India ;

(f) "gold" includes gold in the form of coin, whether legal tender or not, or in the form of bullion or ingot, whether refined or not ;

(g) "Indian currency" means currency which is expressed or drawn in Indian rupees ;

(h) "owner", in relation to any security, includes any person who has power to sell or transfer the security, or who has the custody thereof or who receives, whether on his own behalf or on behalf of any other person, dividends or interest thereon, and who has any interest therein, and in a case where any security is held on any trust or dividends or interest thereon are paid into a trust fund, also includes any trustee or any person entitled to enforce the performance of the trust or to revoke or vary, with or without the consent of any other person, the trust or any terms thereof, or to control the investment of the trust moneys ;

(i) "prescribed" means prescribed by rules made under this Act ;

(j) "Reserve Bank" means the Reserve Bank of India ;

(k) "security" means shares, stocks, bonds, debentures, debenture stock and Government securities, as defined in the Indian Securities Act, 1920, deposit receipts in respect of deposits of securities, and units or sub-units of unit trusts, but does not include bills of exchange or promissory notes other than Government promissory notes ; X of 1920.

(l) "silver" means silver bullion or ingot, silver sheets and plates which have undergone no process of manufacture subsequent to rolling and uncurrent silver coin which is not legal tender in India or elsewhere ;

(m) "transfer" includes, in relation to any security, transfer by way of loan or security.

**Authorised
dealers in
foreign
exchange.**

3. (1) The Reserve Bank may, on application made to it in this behalf, authorise any person to deal in foreign exchange.

(2) An authorisation under this section—

(i) may authorise dealings in all foreign currencies or may be restricted to authorising dealings in specified foreign currencies only ;

(ii) may authorise transactions of all descriptions in foreign currencies or may be restricted to authorising specified transactions only ;

(iii) may be granted to be effective for a specified period, or within specified amounts, and may in all cases be revoked for reasons appearing to it sufficient by the Reserve Bank.

(3) An authorised dealer shall in all his dealings in foreign exchange comply with such general or special directions or instructions as the Reserve Bank may from time to time think fit to give, and, except with the previous permission of the Reserve Bank, an authorised dealer shall not engage in any transaction involving any foreign exchange which is not in conformity with the terms of his authorisation under this section.

(4) An authorised dealer shall, before undertaking any transaction in foreign exchange on behalf of any person, require that person to make such declarations and to give such information as will reasonably satisfy him that the transaction will not involve, and is not designed for the purpose of, any contravention or evasion of the provisions of this Act or of any rules, directions or orders made thereunder, and where the said person refuses to comply with any such requirement or makes only unsatisfactory compliance therewith, the authorised dealer shall refuse to undertake the transaction and shall, if he has reason to believe that any such contravention or evasion as aforesaid is contemplated by the person, report the matter to the Reserve Bank.

4. (1) Except with the previous general or special permission of the Reserve Bank, no person other than an authorised dealer shall in British India, and no person resident in British India other than an authorised dealer shall outside British India, buy or borrow from, or sell or lend to, or exchange with, any person not being an authorised dealer, any foreign exchange. **Restrictions on dealing in foreign exchange.**

(2) Except with the previous general or special permission of the Reserve Bank, no person whether an authorised dealer or otherwise, shall enter into any transaction which provides for the conversion of Indian currency into foreign currency or foreign currency into Indian currency at rates of exchange other than the rates for the time being authorised by the Reserve Bank.

(3) Where any foreign exchange is acquired by any person other than an authorised dealer for any particular purpose, or where any person has been permitted conditionally to acquire foreign exchange, the said person shall not use the foreign exchange so acquired otherwise than for that purpose or, as the case may be, fail to comply with any condition to which the permission granted to him is subject, and where any foreign exchange so acquired cannot be so used or, as the case may be, the conditions cannot be complied with, the said person shall without delay sell the foreign exchange to an authorised dealer.

(4) Nothing in this section shall be deemed to prevent a person from buying from any post office, in accordance with any law or rules made thereunder for the time being in force, any foreign exchange in the form of postal orders or money orders.

Restrictions on
payments.

5. (1) Save as may be provided in and in accordance with any general or special exemption from the provisions of this sub-section which may be granted conditionally or unconditionally by the Reserve Bank, no person in, or resident in, British India shall—

(a) make any payment to or for the credit of any person resident outside India ;

(b) draw, issue or negotiate any bill of exchange or promissory note or acknowledge any debt, so that a right (whether actual or contingent) to receive a payment is created or transferred in favour of any person resident outside India ;

(c) make any payment to or for the credit of any person by order or on behalf of any person resident outside India ;

(d) place any sum to the credit of any person resident outside India ;

(e) make any payment to or for the credit of any person as consideration for or in association with—

(i) the receipt by any person of a payment or the acquisition by any person of property outside India ;

(ii) the creation or transfer in favour of any person of a right whether actual or contingent to receive a payment or acquire property outside India ;

(f) draw, issue or negotiate any bill of exchange or promissory note, transfer any security or acknowledge any debt, so that a right (whether actual or contingent) to receive a payment is created or transferred in favour of any person as consideration for or in association with any matter referred to in clause (e).

(2) Nothing in sub-section (1) shall render unlawful—

(a) the making of any payment already authorised, either with foreign exchange obtained from an authorised dealer under section 4 or with foreign exchange retained by a person in pursuance of an authorisation granted by the Reserve Bank ;

(b) the making of any payment with foreign exchange received by way of salary or payment for services not arising from business in, or anything done while in, India.

(3) Nothing in this section shall restrict the doing by any person of anything within the scope of any authorisation or exemption granted under this Act.

(4) For the purposes of this section, "security" also includes coupons or warrants representing dividends or interest and life or endowment insurance policies.

6. (1) Where an exemption from the provisions of section 5 is granted by the Reserve Bank in respect of payment of any sum to any person resident outside

Blocked
accounts.

India and the exemption is made subject to the condition that the payment is made to a blocked account—

(a) the payment shall be made to a blocked account in the name of that person in such manner as the Reserve Bank may by general or special order direct; and

(b) the crediting of that sum to that account shall, to the extent of the sum credited, be a good discharge to the person making the payment.

(2) No sum standing at the credit of a blocked account shall be drawn on except in accordance with any general or special permission which may be granted conditionally or otherwise by the Reserve Bank.

(3) In this section "blocked account" means an account opened as a blocked account at any office or branch in British India of a bank authorised in this behalf by the Reserve Bank, or an account blocked, whether before or after the commencement of this Act, by order of the Reserve Bank.

7. (1) Where in the opinion of the Central Government it is necessary or expedient to regulate payments due to persons resident in any territory, the Central Government may, by notification in the official Gazette, direct that such payments or any class of such payments shall be made only into an account (hereinafter referred to as a special account) to be maintained for the purpose by the Reserve Bank or an authorised dealer specially authorised by the Reserve Bank in this behalf. Special accounts.

(2) The credit of a sum to a special account shall, to the extent of the sum credited, be a good discharge to the person making the payment.

Provided that where the liability of the person making the payment is to make the payment in foreign currency, the extent of the discharge shall be ascertained by converting the amount paid into that currency at such rate of exchange as is for the time being fixed or authorised by the Reserve Bank.

(3) The sum standing to the credit of any special account shall from time to time be applied—

(a) where any agreement is entered into between the Central Government and the Government of the territory to which the aforesaid notification relates for the regulation of payments between persons resident in British India and in that territory, in such manner as the Reserve Bank, having regard to the provisions of such agreement, may direct, or

(b) where no such agreement is entered into, for the purpose of paying wholly or partly, and in such order of preference and at such times as the Central Government may direct, debts due from the persons resident in the said territory to persons resident in British India or in such other territories as the Central Government may by order specify in this behalf.

**Restrictions
on import
and export
of certain
currency and
bullion.**

8. (1) The Central Government may, by notification in the official Gazette, order that, subject to such exemptions, if any, as may be contained in the notification, no person shall, except with the general or special permission of the Reserve Bank and on payment of the fee, if any, prescribed bring or send into British India any gold or silver or any currency notes or bank notes or coin whether Indian or foreign.

(2) No person shall, except with the general or special permission of the Reserve Bank or the written permission of a person authorised in this behalf by the Reserve Bank, take or send out of British India any gold, jewellery or precious stones, or Indian currency notes, bank notes or coin or foreign exchange other than foreign exchange obtained from an authorised dealer.

(3) The restrictions imposed by sub-sections (1) and (2) shall be deemed to have been imposed under **VIII of 1878** section 19 of the Sea Customs Act, 1878, without prejudice to the provisions of section 23 of this Act, and all the provisions of that Act shall have effect accordingly.

**Acquisition
by Central
Government
of foreign
exchange**

9. The Central Government may, by notification in the official Gazette, order every person in, or resident in, British India—

(a) who owns such foreign exchange as may be specified in the notification, to offer it, or cause it to be offered for sale to the Reserve Bank on behalf of the Central Government or to such person, as the Reserve Bank may authorise for the purpose, at such price as the Central Government may fix, being a price which is in the opinion of the Central Government not less than the market rate of the foreign exchange when it is offered for sale ;

(b) who is entitled to assign any right to receive such foreign exchange as may be specified in the notification, to transfer that right to the Reserve Bank on behalf of the Central Government on payment of such consideration therefor as the Central Government may fix :

Provided that the Central Government may by the said notification or another order exempt any persons or class of persons from the operation of such order :

Provided further that nothing in this section shall apply to any foreign exchange acquired by a person from an authorised dealer and retained by him with the permission of the Reserve Bank for any purpose.

10 (1) No person who has a right to receive any foreign exchange or to receive from a person resident outside India a payment in rupees shall, except with the general or special permission of the Reserve Bank, do or refrain from doing any act with intent to secure—

Duty of persons entitled to receive foreign exchange, etc.

(a) that the receipt by him of the whole or part of that foreign exchange or payment is delayed, or

(b) that the foreign exchange or payment ceases in whole or in part to be receivable by him.

(2) Where a person has failed to comply with the requirements of sub-section (1) in relation to any foreign exchange or payment in rupees, the Reserve Bank may give to him such directions as appear to be expedient for the purpose of securing the receipt of the foreign exchange or payment as the case may be.

11. The Central Government may, by notification in the official Gazette, impose such conditions as it thinks necessary or expedient on the use or disposal of or dealings in gold and silver prior to, or at the time of, import into British India.

Power to regulate the uses, etc., of imported gold and silver.

12. (1) The Central Government may, by notification in the official Gazette, prohibit the export of any goods or class of goods specified in the notification from British India directly or indirectly to any place so specified unless a declaration supported by such evidence as may be prescribed or so specified, is furnished by the exporter to the prescribed authority that the amount representing the full export value of the goods has been, or will within the prescribed period be, paid in the prescribed manner

Payment for exported goods.

(2) Where any export of goods has been made to which a notification under sub-section (1) applies, no person entitled to sell, or procure the sale of, the said goods shall, except with the permission of the Reserve Bank, do or refrain from doing any act with intent to secure that—

(a) the sale of the goods is delayed to an extent which is unreasonable having regard to the ordinary course of trade, or

(b) payment for the goods is made otherwise than in the prescribed manner or does not represent the full amount payable by the foreign buyer in respect of the goods, subject to such deductions, if any, as may be allowed by the Reserve Bank, or is delayed to such extent as aforesaid :

Provided that no proceedings in respect of any contravention of this sub-section shall be instituted unless the prescribed period has expired and payment for the goods representing the full amount as aforesaid has not been made in the prescribed manner.

(3) Where in relation to any such goods the said period has expired and the goods have not been sold and payment therefor has not been made as afore-

said, the Reserve Bank may give to any person entitled to sell the goods or to procure the sale thereof, such directions as appear to it to be expedient for the purpose of securing the sale of the goods and payment therefor as aforesaid, and without prejudice to the generality of the foregoing provision, may direct that the goods shall be assigned to the Central Government or to a person specified in the directions.

(4) Where any goods are assigned in accordance with sub-section (3), the Central Government shall pay to the person assigning them such sum in consideration of the net sum recovered by or on behalf of the Central Government in respect of the goods as may be determined by the Central Government.

(5) Where in relation to any such goods the value as stated in the invoice is less than the amount which in the opinion of the Reserve Bank represents the full export value of those goods, the Reserve Bank may issue an order requiring the person holding the shipping documents to retain possession thereof until such time as the exporter of the goods has made arrangements for the Reserve Bank or a person authorised by the Reserve Bank to receive on behalf of the exporter payment in the prescribed manner of an amount which represents in the opinion of the Reserve Bank the full export value of the goods.

(6) For the purpose of ensuring compliance with the provisions of this section and any orders or directions made thereunder, the Reserve Bank may require any person making any export of goods to which a notification under sub-section (1) applies to exhibit contracts with his foreign buyer or other evidence to show that the full amount payable by the said buyer in respect of the goods has been, or will within the prescribed period be, paid in the prescribed manner.

Regulation
of export
and transfer
of securities.

13. (1) No person shall, except with the general or special permission of the Reserve Bank,—

(a) take or send any security to any place outside India ;

(b) transfer any security or create or transfer any interest in a security to or in favour of a person resident outside India ;

(c) transfer any security from a register in British India to a register outside India or do any act which is calculated to secure, or forms part of a series of acts which together are calculated to secure, the substitution for any security which is either in, or registered in, British India, of any security which is either outside or registered outside India ;

(d) issue, whether in British India or elsewhere, any security which is registered or to be registered in British India, to a person resident outside India.

(2) Where the holder of a security is a nominee, neither he nor any person through whose agency the exercise of all or any of the holder's rights in respect of the security is controlled shall, except with the general or special permission of the Reserve Bank, do any act whereby he recognises or gives effect to the substitution of another person as the person from whom he directly receives instructions, unless both the persons previously instructing him and the person substituted for that person were, immediately before the substitution, resident in India.

(3) The Reserve Bank may, for the purpose of securing that the provisions of this section are not evaded, require that the person transferring any security and the person to whom such security is transferred shall subscribe to a declaration that the transferee is not resident outside India.

(4) Notwithstanding anything contained in any other law, no person shall, except with the permission of the Reserve Bank,—

(a) enter any transfer of securities in any register or book in which securities are registered or inscribed if he has any ground for suspecting that the transfer involves any contravention of the provisions of this section, or

(b) enter in any such register or book, in respect of any security, whether in connection with the issue or transfer of the security or otherwise, an address outside India except by way of substitution for any such address in the same country or for the purpose of any transaction for which permission has been granted under this section with knowledge that it involves entry of the said address.

(5) For the purposes of this section,—

(a) "holder" in relation to a bearer security means the person having physical custody of the security; provided that, where a bearer security is deposited with any person in a locked or sealed receptacle from which the person with whom it is deposited is not entitled to remove it without the authority of some other person, that other person shall be deemed to be the holder of the security;

(b) "nominee" means a holder of any security (including a bearer security) or any coupon representing dividends or interest who, as respects the exercise of any rights in respect of the security or coupon, is not entitled to exercise those rights except in accordance with instructions given by some other person, and a person holding a security or coupon as a nominee shall be deemed to act as nominee for the person who is entitled to give instructions either directly or through the agency of one or more persons, as to the exercise by the holder of the security or coupon of any rights in

respect thereof and is not, in so doing, himself under a duty to comply with instructions given by some other person ;

(c) "security" also includes coupons or warrants representing dividends or interest, and life or endowment insurance policies.

Custody of securities.

14. (1) The Central Government may, by notification in the official Gazette, order every person by whom or on whose behalf a security or document of title to a security specified in the order is held in British India to cause the said security or document of title to be kept in the custody of an authorised depository named in the order :

Provided that the Reserve Bank may by order in writing permit any such security to be withdrawn from the custody of the authorised depository subject to such conditions as may be specified in the order.

(2) No authorised depository may part with any security covered by an order under sub-section (1) without the general or special permission of the Reserve Bank except to, or to the order of, another authorised depository.

(3) Except with the general or special permission of the Reserve Bank, no authorised depository shall—

(a) accept or part with any security covered by an order under sub-section (1) whereby the security is transferred into the name of a person resident outside India, or

(b) do any act whereby he recognises or gives effect to the substitution of another person as the person from whom he directly receives instructions relating to such security unless the person previously so instructing him and the person substituted for that person were immediately before the substitution resident in India.

(4) Except with the general or special permission of the Reserve Bank, no person shall buy, sell or transfer any security, or document of title to a security, covered by an order under sub-section (1) unless such security or document of title has been deposited in accordance with the order.

(5) Except with the general or special permission of the Reserve Bank, no capital moneys, interest or dividends in respect of any security covered by an order under sub-section (1) shall be paid in British India except to or to the order of the authorised depository having the custody of the security.

(6) For the purposes of this section,—

(a) "authorised depository" means a person notified by the Central Government to be entitled to accept the custody of securities and documents of title to securities, and

(b) "security" shall include coupons.

15. The Central Government may, by notification in the official Gazette, order that except with the general or special permission of the Reserve Bank no person shall in British India issue any bearer security or coupon or so alter any document that it becomes a bearer security or coupon.

Restrictions on issue of bearer securities.

16. (1) Subject to any exemptions that may be contained in the notification, the Central Government may, if it is of opinion that it is expedient so to do for the purpose of strengthening its foreign exchange position by notification in the official Gazette,—

Acquisition by Central Government of foreign securities.

(a) order the transfer to itself of any foreign securities specified in the notification at a price so specified, being a price which is, in the opinion of the Central Government not less than the market value of the securities on the date of the notification, or

(b) direct the sale of any foreign securities specified, in the notification to sell or procure the sale of the securities and thereafter to offer or cause to be offered the net foreign exchange proceeds of the sale to the Reserve Bank on behalf of the Central Government or to such person as the Reserve Bank may authorise for the purpose, at such price as the Central Government may fix, being a price which is in the opinion of the Central Government not less than the market rate of the foreign exchange when it is offered for sale.

(2) On the issue of a notification under clause (a) of sub-section (1),—

(a) the securities to which the notification relates shall forthwith vest in the Central Government free from any mortgage, pledge or charge, and the Central Government may deal with them in such manner as it thinks fit ;

(b) the owner of any of the securities to which the notification relates and any person who is responsible for keeping any registers or books in which any of those securities are registered or inscribed, or who is otherwise concerned with the registration or inscription of any of those securities, shall do all such things as are necessary or as the Central Government or the Reserve Bank may order to be done, for the purpose of securing that—

(i) the securities and any documents of title relating thereto are delivered to the Central Government and, in the case of registered or inscribed securities, that the securities are registered or inscribed in the name of the Central Government or of such nominee of the Central Government as it may specify, and

(ii) any dividends or interest on those securities becoming payable on or after the date of the issue of the notification are paid

to the Central Government or its nominee as aforesaid and where in the case of any security payable to bearer which is delivered in pursuance of the said notification, any coupons representing any such dividends or interest are not delivered with the security, such reduction in the price payable therefor shall be made as the Central Government thinks fit :

Provided that where the price specified in the notification in relation to any security is ex-dividend or ex-interest, this sub-clause shall not apply to that dividend or interest or to any coupon representing it.

(3) A certificate signed by any person authorised in this behalf by the Central Government that any specified securities are securities transferred to the Central Government under this section shall be treated by all persons concerned as conclusive evidence that the securities have been so transferred.

Restriction on
settlement.

17. (1) No person resident in British India shall, except with the general or special permission of the Reserve Bank, settle any property, otherwise than by will, upon any trust under which a person who at the time of the settlement is resident outside India, elsewhere than in territories notified in this behalf by the Reserve Bank, will have an interest in the property, or exercise, other than by will, any power for payment in favour of a person who at the time of the exercise of the power is resident outside India elsewhere than in such notified territories.

(2) A settlement or power as aforesaid shall not be invalid except in so far as it confers any right or benefit on any person who at the time of the settlement or the exercise of the power is resident outside India, elsewhere than in territories notified by the Reserve Bank.

Certain provisions
as to companies.

18. (1) Except with the general or special permission of the Reserve Bank, no person resident in British India shall do any act whereby a company, which is controlled by persons resident in India or the United Kingdom ceases to be so controlled.

(2) Except with the general or special permission of the Reserve Bank, no person resident in British India shall lend any money either to any company (other than a banking company) which is controlled, whether directly or indirectly, by persons resident outside India elsewhere than in the United Kingdom or territories notified in this behalf by the Reserve Bank, or to any such person.

Power to call for
information.

19. (1) The Central Government may, at any time by notification in the official Gazette, direct owners, subject to such exceptions, if any, as may be specified in the notification, of such foreign exchange or foreign

securities as may be so specified, to make a return thereof to the Reserve Bank within such period, and giving such particulars, as may be so specified.

(2) The Central Government may by order in writing require any person to furnish it or any person specified in the order with any information, book or other document in his possession, being information, book or document which the Central Government considers it necessary or expedient to obtain and examine for the purposes of this Act.

(3) If on a representation in writing made by a person authorised in this behalf by the Central Government or the Reserve Bank, a District Magistrate, Sub-Divisional Magistrate, Presidency Magistrate or Magistrate of the first class has reason to believe that a contravention of any of the provisions of this Act has been, or is being or is about to be committed in any place, he may by warrant authorise any police officer not below the rank of sub-inspector—

(a) to enter and search any place in the manner specified in the warrant; and

(b) seize any books or other documents found in or on such place which should have been produced in compliance with a requisition issued under sub-section (2) or which the police officer has reason to believe to contain the information required to be furnished under that sub-section.

Explanation.—In this sub-section, “place” includes a house, building, tent, vehicle, vessel or aircraft.

XI of 1922. (4) The provisions of sub-sections (1), (2) and (3) of section 54 of the Indian Income-tax Act, 1922, shall apply in relation to information obtained under sub-section (2) of this section as they apply to the particulars referred to in that section, and for the purposes of such application—

(a) the said sub-section (3) shall be construed as if in clause (a) thereof there was included reference to a prosecution for an offence under section 23 of this Act, and

(b) persons to whom any information is required to be furnished under an order made under sub-section (2) of this section shall be deemed to be public servants within the meaning of that section.

20. (1) For the purposes of this Act and of any Supplemental rules, directions or orders made thereunder—

(a) until the Reserve Bank by general or special order otherwise directs, any person who has at any time after the commencement of this Act been resident in India shall be treated as still being resident in India and if such direction is given in relation to any such person the Reserve Bank

provisions.

may by the same or a subsequent direction, declare the territory in which he shall be treated as being resident ;

(b) in the case of any person to whom clause (a) does not apply the Reserve Bank may by general or special order declare the territory in which he shall be treated as being resident ;

(c) in the case of any person resident in British India who leaves India, the Reserve Bank may give a direction to any bank that until the direction is revoked, any sum from time to time standing to the credit of that person and any security held on his behalf at any office or branch of that bank in British India specified in the direction, shall not be dealt with except with the permission of the Reserve Bank ;

(d) any transactions with a branch of any business, whether carried on by a body corporate or otherwise, shall be treated in all respects as if the branch were a body corporate resident where the branch is situated ;

(e) the making of any book entry or other statement recording a debit against a branch of any business in favour of the head office or any other branch of that business shall be treated as the acknowledgment of a debt whereby a right is created in favour of a person resident where the head office or other branch is situated.

(2) Nothing in this Act relating to the payment of any price or sum by the Central Government shall be construed as requiring the Central Government to pay that price or sum otherwise than in Indian currency or otherwise than in India.

(3) The Reserve Bank may give directions in regard to the making of payments and the doing of other acts by bankers, authorised dealers, travel agents or stock brokers and other persons who are authorised by the Reserve Bank to do anything in pursuance of this Act in the course of their business, as appear to it to be necessary or expedient for the purpose of securing compliance with the provisions of this Act and any rules, orders or directions made thereunder.

21. (1) No person shall enter into any contract or agreement which would directly or indirectly evade or avoid in any way the operation of any provision of this Act or of any rule, direction or order made thereunder.

(2) Any provision of, or having effect under, this Act that a thing shall not be done without the permission of the Central Government or the Reserve Bank, shall not render invalid any agreement by any person to do that thing, if it is a term of the agreement that that thing shall not be done unless permission is granted by the Central Government or the Reserve Bank, as the case may be ; and it shall be an implied term of every contract governed by the law of any part of British India that anything agreed to be done by any term of that contract which is prohibited to be done

Contracts in.
evasion of
this Act

by or under any of the provisions of this Act except with the permission of the Central Government or the Reserve Bank, shall not be done unless such permission is granted.

(3) Neither the provisions of this Act nor any term (whether expressed or implied) contained in any contract that anything for which the permission of the Central Government or the Reserve Bank is required by the said provisions shall not be done without that permission, shall prevent legal proceedings being brought in British India to recover any sum which, apart from the said provisions and any such term, would be due, whether as a debt, damages or otherwise, but—

(a) the said provisions shall apply to sums required to be paid by any judgment or order of any Court as they apply in relation to other sums; and

(b) no steps shall be taken for the purpose of enforcing any judgment or order for the payment of any sum to which the said provisions apply except as respects so much thereof as the Central Government or the Reserve Bank, as the case may be, may permit to be paid; and

(c) for the purpose of considering whether or not to grant such permission, the Central Government or the Reserve Bank, as the case may be, may require the person entitled to the benefit of the judgment or order and the debtor under the judgment or order, to produce such documents and to give such information as may be specified in the requirement.

XXVI of
1881.

(4) Notwithstanding anything in the Negotiable Instruments Act, 1881, neither the provisions of this Act or of any rule, direction or order made thereunder, nor any condition, whether express or to be implied having regard to those provisions, that any payment shall not be made without permission under this Act, shall be deemed to prevent any instrument being a bill of exchange or promissory note.

22. No person shall, when complying with any order or direction under section 19 or when making any application or declaration to any authority or person for any purpose under this Act, give any information or make any statement which he knows or has reasonable cause to believe to be false, or not true, in any material particular.

False statements.

23. (1) Whoever contravenes any of the provisions of this Act or of any rule, direction or order made thereunder shall be punishable with imprisonment for a term which may extend to two years or with fine or with both, and any Court trying any such contravention may, if it thinks fit and in addition to any sentence which it may impose for such contravention, direct that any currency, security, gold or silver, or goods or other property in respect of which the contravention has taken place shall be confiscated.

Penalty and procedure.

(2) No Court shall take cognisance of any offence punishable under this section or under section 54 of the Indian Income-tax Act, 1922, as applied by section 19 of this Act, except upon complaint in writing made by a person authorised in this behalf by the Central Government or the Reserve Bank : XI of 1922

Provided that where any such offence is the contravention of any of the provisions of this Act or any rule, direction or order made thereunder which prohibits the doing of an act without permission, no such complaint shall be made unless the person accused of the offence has been given an opportunity of showing that he had such permission.

(3) If the person committing an offence punishable under this section is a company or other body corporate, every director, manager, secretary, or other officer thereof shall, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent its commission, be deemed to be guilty of such offence.

Burden of
proof in
certain cases.

24. Where any person is prosecuted for contravening any provision of this Act or of any rule, direction or order made thereunder which prohibits him from doing an act without permission, the burden of proving that he had the requisite permission shall be on him.

Power to
Central
Government
to give
direction.

25. For the purposes of this Act the Central Government may from time to time give to the Reserve Bank such general or special directions as it thinks fit, and the Reserve Bank shall, in the exercise of its functions under this Act, comply with any such directions.

Bar of legal
proceedings.

26. No suit, prosecution or other legal proceedings shall lie against any person for anything in good faith done or intended to be done under this Act or any rule, direction or order made thereunder.

Power to
make rules.

27. (1) The Central Government may, by notification in the official Gazette, make rules for carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may—

(a) proscribe forms and the circumstances of their use for the purposes of this Act ;

(b) prescribe the procedure to be followed by authorised dealers and by persons applying for permission to do anything for the doing of which permission is necessary under this Act ;

(c) provide for any matter which is to be or may be prescribed under this Act.

ACT No. VIII OF 1947

An Act further to amend the Indian Navy (Discipline) Act, 1934

XXXIV of 1934 WHEREAS it is expedient further to amend the Indian Navy (Discipline) Act, 1934, for the purpose hereinafter appearing;

It is hereby enacted as follows:—

1. This Act may be called the Indian Navy (Discipline) (Amendment) Act, 1947. Short title.

2. For section 90 of the Naval Discipline Act as set forth in the First Schedule to the Indian Navy (Discipline) Act, 1934, the following section shall be substituted, namely:— Amendment of First Schedule, Act XXXIV of 1934.

“90. (1) If any person who would not otherwise be subject to this Act enters into an engagement with the Central Government to serve His Majesty— Provision respecting discipline of persons under engagement to serve His Majesty.

(a) in a particular ship, or

(b) in such particular ship or in such ships as the Officer Commanding the Indian Navy or any officer empowered in this behalf by the Officer Commanding the Indian Navy, may from time to time determine,

and agrees to become subject to this Act upon entering into the engagement, that person shall, so long as the engagement remains in force, and notwithstanding that for the time being he may not be serving in any ship, be subject to this Act, and the provisions of this Act shall apply in relation to that person, as if, while subject to this Act, he belonged to His Majesty's Navy and were borne on the books of one of His Majesty's ships in commission.

(2) The Central Government may by order direct that, subject to such exceptions as may in particular cases be made by or on behalf of the Officer Commanding the Indian Navy, persons of any such class as may be specified in the order shall, while subject to this Act by virtue of this section, be deemed to be officers or petty officers, as the case may be, for the purposes of this Act or of such provisions of this Act as may be so specified; and any such order may be varied or revoked by a subsequent order.”

3. Clause (iii) of sub-section (1) of section 2 of the Emergency Provisions (Continuance) Ordinance, 1946, shall be omitted. Amendment of section 2, Ord. XX of 1946.

ACT No. IX OF 1947

An Act to provide for the completion of recovery of the temporary excise duty on sugar.

WHEREAS the duty of excise on sugar levied by the Sugar (Temporary Excise Duty) Ordinance, 1946, cannot be fully recovered before the expiry of the said Ordinance; XXV of 1946

AND WHEREAS it is expedient to make provision for the completion of the recovery of the said duty, and for a certain incidental matter ;

It is hereby enacted as follows:—

Short title
and extent.

1. (1) This Act may be called the Sugar (Temporary Excise⁶ Duty) Act, 1947.

(2) It extends to the whole of British India.

Continuance of
provisions for re-
covering excise
duty on sugar.
XXV of 1948

2. The expiry in due course of the Sugar (Temporary⁷ Excise Duty) Ordinance, 1946, shall not affect the liability to pay the duty levied thereby or the liability to any penalty or punishment incurred thereunder, and for the purposes of completing and enforcing the recovery of the said duty and penalties, all the provisions of the said Ordinance shall, on its expiry, continue to have effect as if they were enacted in this Act.

Effect of levy of
duty on certain
sales.
III of 1930.
XXV of 1946.

3. Without prejudice to the provisions of section 64A of the Indian Sale of Goods Act, 1930, where in any contract for the sale of any sugar on which a duty of excise was levied by the Sugar (Temporary Excise Duty) Ordinance, 1946, the seller was prevented by the operation of any law then in force from adding to or including in the contract price an amount equivalent to the duty payable on the sugar, he shall, provided that he has paid the said duty or that there was included in the price which he himself paid for the sugar an amount equivalent as aforesaid, be entitled to be paid such amount by the buyer and to sue for and recover such amount.

G. H. SPENCE,
Secy. to the Govt. of India.